

ARGUMENT OF
Hon. CHARLES S. HAMLIN

Before the Legislative Committee
on Taxation;

BOSTON, FEBRUARY 2ND, 1900.

AND REMARKS OF
HORATIO G. CURTIS, Esq.

PUBLISHED BY THE
MASSACHUSETTS ANTI-DOUBLE-TAXATION LEAGUE.
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THE BILL.

HOUSE No. 40.

[Bill accompanying petition of the Massachusetts Anti-Double-Taxation League.]

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred.

AN ACT

To exempt from Taxation in the Commonwealth Personal Property situated and taxed without the Commonwealth, and shares of Certain Corporations organized under the Laws of other States.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows :—

1 SECTION 1. Section four of chapter eleven of the Public
2 Statutes, as amended by chapter seventy-six of the acts of
3 the year eighteen hundred and eighty-two, and by chapter
4 two hundred and twenty-eight of the acts of the year
5 eighteen hundred and eighty-seven, and by chapter three
6 hundred and sixty-three of the acts of the year eighteen
7 hundred and eighty-eight, is hereby further amended by add-
8 ing at the end thereof the following words : “and *provided*
9 *also*, that no taxes shall be assessed on personal property
10 situated and subject to taxation without the Common-

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11 wealth, or on shares of corporations which are organized
12 under the laws of other states, and the property of which
13 is taxable within or without the Commonwealth. The
14 income of, or dividends upon, such personal property or
15 shares, however, shall be included in personal estate for
16 the purposes of taxation,"— so that the last clause of said
17 section four shall read as follows: *provided* that no taxes
18 shall be assessed in any city or town for state, county or
19 town purposes upon the shares in the capital stock of a
20 corporation organized or chartered in the Commonwealth
21 paying a tax on its corporate franchises under the provi-
22 sions of chapter thirteen for any year in which it pays such
23 tax, but such shares shall be taxable to the owners thereof
24 for school district and parish purposes, and this proviso
25 shall apply to corporations mentioned in the forty-sixth
26 section of said chapter thirteen,—and *provided also*, that
27 no taxes shall be assessed on personal property situated
28 and subject to taxation without the Commonwealth, or on
29 shares of corporations which are organized under the
30 laws of other states, and the property of which is taxable
31 within or without the Commonwealth. The income of, or
32 dividends upon, such personal property or shares, how-
33 ever, shall be included in personal estate for the purposes
34 of taxation.

1 SECTION 2. The exemption of personal property situ-
2 ated and subject to taxation without the Commonwealth
3 and the exemption of shares of corporations organized
4 under the laws of other states, the property of which is
5 taxable within or without the Commonwealth, provided in
6 this act, shall apply only to the property of such persons as
7 comply with the provisions of section thirty-eight of chap-
8 ter eleven of the Public Statutes requiring the inhabitants
9 to bring in to the assessors true lists of their property not
10 exempted from taxation.

1 SECTION 3. This act shall take effect upon its passage.

ARGUMENT OF
HON. CHARLES S. HAMLIN

Before the Committee on Taxation, Boston,
February 2nd, 1900.

Mr. Chairman and Gentlemen :

I appear as President of the Massachusetts Anti-Double-Taxation League, an organization which represents almost every profession and every branch of industry in this Commonwealth. We have filed a petition with an accompanying Bill, which it will not be necessary to read, providing practically that the existing law as to taxation be amended so that no taxes shall be assessed on personal property situated and subject to taxation without the Commonwealth or on shares of corporations which are organized under the laws of other states and the property of which is taxable within or without the Commonwealth. The income of, or dividends upon, such personal property or shares, however, our Bill provides, shall be included in personal estate for the purposes of taxation. The present law, as of course is well understood, levies a tax on the full market value of holdings of Massachusetts' citizens in stocks in foreign corporations although those foreign corporations are taxed upon the full market value of their property in the places of their domicile. We come before you and ask that this law be repealed in so far as I have indicated, and that in place of a tax upon the market value of such foreign stocks there shall be substituted a tax on the income which Massachusetts' holders receive from such stocks.

This leads up to an important point upon which I wish to

make myself perfectly clear. I think we will all agree that the law to-day is not enforced. Both the petitioners and remonstrants cordially will join hand in hand on that proposition. And I want to say, first, that I believe thoroughly that any law which is on the statute books of Massachusetts should be fairly and honestly enforced, and I would not for a moment hold my position as president of this society and come before you without first making myself plain on that point. I have been in past years in the somewhat unpleasant position of having to enforce laws the wisdom of which I did not endorse. I tried, however, to enforce them honestly and fearlessly, and I believe that if this law as it stands to-day is to remain on the statute books it should be honestly and fearlessly enforced, whatever the consequences. If we have a law on the statute books which is unfair or unjust the proper way is to repeal that law, but if it is not repealed I will join hands with anybody to insist that the executive department of the State shall enforce that law rigorously.

We ask you to change the existing law, not because you may call it double taxation or single taxation. The gist of our appeal to you, gentlemen, is to change this law because it is unjust, and because it is unfair, and because, if actually enforced, it will defeat its purpose. I appreciate fully that you have to consider ways and means to provide revenue for carrying out the laws of Massachusetts and protecting our citizens and our property, and any one coming before you must be prepared to argue the question as to what the loss will be to the state in revenue provided any suggested amendment to the laws is made. In this connection, it is not for us to consider this morning what gain would accrue provided the existing law were enforced. The sole question that we ask you to consider, briefly, is what loss would accrue to the state provided in your discretion you see fit to recommend the amendment which we propose this morning. The pertinent question at once arises: Will it be necessary for the state to impose any new taxes provided the existing tax laws are changed as we suggest?

I appreciate that taxation is not a blessing. It is taking

private property for the purposes of the state. I appreciate that in many ways taxation is more burdensome in Massachusetts on one class than on another, and I believe firmly that it would be very difficult to devise a uniform system of taxation in the State of Massachusetts that would impose the burdens of taxation fairly and honestly on each individual in proportion to justice and fairness. For that reason I thoroughly believe to a limited extent in the theory of local option in taxation, because I believe that a theory of taxation could be devised for some of the cities of the state which would bring about substantial justice, which, however, would not be wise and fair, and would be perhaps burdensome, if it were applied in some towns of the state. I thoroughly agree, and will agree, with all that our friends the remonstrants will say to you about the burdens of taxation. The secret, the art of taxation, of course, is to put the burden where it belongs, so that each citizen may pay his share, his just share, of the expenses of government.

It is impossible to state accurately what is the value of holdings of stock of foreign corporations on which to-day a tax is levied and collected. I take the figure at about \$70,000,000, or from \$70,000,000 to \$100,000,000. I don't know that my friends the remonstrants will seriously object to that figure. It is really a guess; it is impossible accurately to determine it, but I take it from \$70,000,000 to \$100,000,000 is actually reached by assessors to-day, either by the doomage process or from returns of the comparatively few who make returns. But when we come to the amount or value of foreign stocks actually held by citizens of Massachusetts but not reached by the assessors we are even farther away from what would be a possible estimate. I want to agree on all the non-essentials of our case, and I am perfectly willing to say that I believe (it is an idle guess, I could not substantiate it) that as much as a billion dollars' worth of foreign stocks is held by citizens of Massachusetts to-day. If that statement is challenged I cannot defend it, because I don't think any one could ever substantiate it or could prove that it is not correct. For the purpose of my argument I can only state what I believe,—that, roughly speaking, perhaps you may say a hun-

dred millions is assessed and, roughly speaking, perhaps a billion is held. I don't know that our friends the remonstrants would differ very much from us on that proposition. It is as nearly accurate as any of us probably can estimate and I am certainly, I think, not under-estimating the amount; perhaps I am largely over-estimating it.

It is perfectly clear that under existing conditions, when you assess, roughly speaking, only one hundred millions of foreign stocks, the change we suggest, of ceasing to levy the tax rate on the assessed value and in lieu thereof of levying on the income of such stocks, would leave a deficit in the revenues; the revenue thus secured would be very much less. I don't suppose it would be perhaps more than one tenth as much. But gentlemen, that is not the condition of things that is really facing us here. We are perfectly well aware that this law is not complied with, that the assessors, doom as they will and must, and they use all due diligence, do not get at,—and they can't get at, I believe,—much more than one tenth of the real holdings. So to-day you can simply dismiss the case, so far as this is concerned, with the feeling that all we are getting to-day is all we can get under the law as it is to-day. If the law is changed we can take up the question as to what more, if any, we will get by such a change in the law.

If the law is amended as we suggest, it will then, as we submit, be just and fair, and you will have many more returns from individuals, and unquestionably you will find that although each individual pays less, the total proceeds collected will be at least as large as to-day. In addition to increasing the number who make returns, you will also increase the number of investors in such securities. Enormous sums of property are held to-day in Massachusetts in trust. Trustees, for the reason that I will show you later, cannot for a moment think of investing in any stocks of foreign corporations; they are excluded from that field. The moment you say that instead of taxing the assessed value of these stocks you assess the income that comes into the state, the income which this state protects, the property which Massachusetts' citizens receive and which the state exercises its police power

of protection and care over, the moment you limit taxation to that income it is easy to see that trustees will have open to them a field of investment which they never have had before. The result is that investments in these foreign stocks will very largely increase. There is nothing in the laws to-day to prevent a trustee investing in land in other states, and of course on this investment he is not taxed in Massachusetts. If you change this law, holdings that are now made in real estate in foreign states will be invested, or there will be an inducement to invest them, in personal property in foreign states, and thus, in my judgment, you will add to the total net amount of taxes the State of Massachusetts will receive. In other words, I believe firmly that if the law is changed and amended as we suggest the State of Massachusetts in the aggregate will receive more in taxation than it receives at the present time.

What is the result of the law as it is to-day, as it is enforced to-day? The effect is that if a citizen of Massachusetts owns stock in a foreign corporation to-day taxes are assessed on the market value of that stock. The tax rate applied to that market value takes from this tax-payer more than one third, or a varying sum from thirty to more than fifty per cent. of the net income that that man receives. I don't think that any of our friends the remonstrants will deny that that is not just, that that is not fair, it is not right. The citizens of Massachusetts could not do business here if the tax rate were so high that it took away from thirty to over fifty per cent. of his income. You all remember the income tax in the Wilson Tariff Act, which was pronounced unconstitutional by the Supreme Court. That tax amounted to only two per cent. I don't think any civilized country ever imposed a tax on incomes amounting to more than two or three per cent., except in the stress of a great civil war or some great national crisis. Of course we have in this state the collateral inheritance tax, and we have the inheritance tax now on the national statute books, but these taxes rest upon a different principle, namely, that the state has a right to prescribe as to the disposition of property and to take a certain share of that property. Of course, this is really not a tax on income. In my judgment it is not a tax

at all. It is simply a fair appropriation by the state of part of what it permits this person to receive from a testator or intestate estate.

What is the result of present methods of taxation? I have here some figures,— taken from a trust account in New York state. The first item is the Tamarack Mining Company. Its market value, we will say, is \$178 a share. It paid dividends last year, after payment of taxes where the property is situated, I believe, of \$10 a share. The tax at the rate of \$15.50 a thousand, which I take as an approximately correct rate, on \$178 would be \$2.75. If that owner moved to Massachusetts, while he would receive in dividends \$10 a share per year, he would have to pay of that \$10 under the existing tax rate \$2.75. That is twenty-eight per cent. of the income. If all his property were invested in Tamarack Mining Company stock, this person would have to pay twenty-eight per cent. of his income to the Commonwealth of Massachusetts, although the Company has paid full taxes e. g. in Michigan. I submit to you, gentlemen, that is not right, it is not just. It is unnecessary to say that this is double taxation! It is unjust taxation! I simply appeal to you as citizens of this Commonwealth, interested in seeing that every citizen shall pay his fair share toward the support of the Commonwealth, knowing well that you will all agree that this kind of taxation is not just and is not right and that a law that would confiscate twenty-eight per cent. of one's income is a law that should not be permitted to remain on the statute books.

Take the C. B. & Q. Railroad. Assume its market value is \$124 a share. Its dividends last year were \$6. The tax on the existing rate would be \$1.92. If a Massachusetts citizen's property were held in C. B. & Q. Railroad stock, for every \$6 he received as income he would have to pay to the Commonwealth \$1.92. That is thirty-two per cent. of the net income. Gentlemen, that is not just. It is not right.

Take the United States Trust Company of New York. The market value of the shares, the last quotation I had,— it was some months ago,— was \$1270. To-day it is much higher, I think \$1500 or \$1600. At any rate, it was \$1270 three or

four months ago. That pays in dividends \$40 a year. The tax would be \$19.68. That is just about forty-nine per cent. of the net income, which a citizen of Massachusetts would have to pay to the state because he or she owned stock in this foreign corporation.

One more case, the Union Trust Company of New York. Its market value some months ago was \$1125 a share. It paid dividends last year of just \$32 on each share. The tax which a citizen of Massachusetts owning that stock would have to pay out of that \$32 which he or she received would be \$17.43. That is fifty-four per cent. of the income.

I pick out at random these four cases. The lowest is twenty-eight per cent. of the income, the highest is fifty-four per cent. of the income. Gentlemen, I simply lay these facts before you. Call it whatever you please, single or double taxation, it is not right and it is not just. I still believe, if you decide not to introduce this amendment, if you decide that this law shall remain on the statute books, that you ought to enforce it. I believe you ought to amend this law some way so that either you shall collect that fifty-two per cent. or you shall drive that person out of the state, or you shall force him to invest in some other property. I think the remonstrants and we will all agree. At any rate, that is my proposition. I think it is a disgrace to any commonwealth to have any statute on its books that is openly and successfully evaded, as is this statute, and while I appeal to you to change the law, I simply say that if you don't change the law then I appeal to you to enforce it.

What is the result, supposing we are to enforce this law, because I believe that this Committee will see the justice of the claim either that you shall repeal the law and amend it as we have indicated or enforce it. I appeal strongly to you to take either horn of this dilemma. I appeal to you to do one or the other. And I shall assume in the moment that I have left that you will do either one or the other; you will either repeal the law, as we suggest, or you will provide that this law shall be executed so that no man in this state can escape it. What will be the result if you do change this law so that it

must be obeyed? Of course no trustee holding stocks for his beneficiary could ever think of investing in any stock in foreign corporations, because it would practically eat up, as I have said, from thirty to fifty per cent. of the income. It would not be prudent. He would not represent the trust estate properly if he did that. It would be an improper disposition of the property of his beneficiary.

What will be the result as to other people in Massachusetts, citizens, you and me and all of us, if we know that this law, as it ought to be, if not repealed, is going to be enforced? Supposing we are holding C. B. & Q. stock, or Tamarack, or any stocks in foreign corporations. Supposing you pass a law that on the first day of January next you shall require sworn returns, you shall force every citizen under penalty of imprisonment to go forward and show to the assessors every dollars' worth of property and stock, foreign and domestic, that he holds. What is the condition that would face you as Massachusetts citizens? You would simply say, "I can no longer afford to hold those foreign stocks, I have got to sell them," and instantly you would sell them. It is not to be supposed that any person of average intelligence in Massachusetts, if this law were to be enforced, would for a moment think of holding property on which he would have to pay to the state fifty per cent. of the net return in the shape of taxation. A sale of the property would be a way in which a man honestly could avoid the operation of this law, and of course the people of Massachusetts would at once invest in other things. They will invest in land in other states, where, under our laws, they are not subject to taxation. As you gentlemen all know, to-day if you as an individual invest in land in New York state the Commonwealth of Massachusetts does not attempt to tax it, but if you buy stock in a corporation owning that land you are instantly taxed. From the time the law is enforced there would not be one share of stock of a foreign corporation owned by a citizen of Massachusetts!

I have not much sympathy for citizens who say they will leave the state on any question of taxation. I don't propose to argue for them here. I propose to stay, and am glad to

stay in the best state, I believe, in the Union. And I don't propose to argue as to men of wealth who might be induced to come into Massachusetts if we have just tax laws. If they don't care to come into our glorious Commonwealth let them stay out. I simply say, gentlemen, that I do appear here to speak in behalf of citizens of Massachusetts who won't leave the state, who could not and would not if they could leave the state under any system of taxation. I simply ask, in behalf of those men, that you will amend this law so that it will be right and just, so that a person can invest in stock of foreign corporations without being penalized for it; so that we shall be able to widen the scope of our investments, which of course will redound to the profit of all our citizens. If Massachusetts were a new state; if her resources were not abundantly developed; if she had magnificent farming areas such as we see in the West, needing capital; if she had mines of gold and copper and iron and silver, why, perhaps it might not be bad policy to arrange our tax laws so that people would have to keep every dollar invested in the Commonwealth. But such is not the case. Massachusetts is one of the greatest industrial states in the Union or in the world; but Massachusetts has so much capital that she cannot be pent up by the confines of this state. The capital of Massachusetts and the energy and the intelligence goes into every state in the Union, just as it is going to-day to the Philippines, or to Porto Rico, or South America, or China. Only the geographical limitations of the globe confine Massachusetts' capital and Massachusetts' energy. And yet this law to-day on the statute books, if you enforce it, as I assume you will, will be a decree that Massachusetts industrially must cut herself off from the rest of the world and confine investments of capital which its citizens have earned to investments in this state to the detriment of every citizen and every industry in the Commonwealth of Massachusetts.

I can't believe that this Legislature for a moment will make such a decree. I believe, on the contrary, it will decree that this law as it stands to-day, taking from thirty to fifty per cent. of the income of a holder in foreign

stocks, is wrong, is unjust and shall be repealed. I repeat that any taxation, whatever you call it, that takes away from a citizen of Massachusetts half the income from his investments in foreign stocks, leaving untouched the income he derives from investments in stocks in this state, is not just, is not right. I believe I know this Committee, I know its reputation for intelligence and fair-mindedness; I know it represents the Legislature of this great Commonwealth, and that you its members will consider this question true to your oaths of office, true to the best interests of this great Commonwealth. And when you have applied that intelligence to this problem I am sure that you will reach the conclusion with which I began, that no law should remain on the statute books without being enforced, and that if you should enforce this law it would be a serious blow to the prosperity of our grand old Commonwealth. The alternative is to change this law, levy a tax on the income which Massachusetts' people receive from their foreign investments, income which we protect by our laws, which we protect by our police power, and thus we shall have a system of taxation, to that extent at least, which is just, is right, and puts a proper burden on the individual taxpayer, leaving for this Legislature in other Bills to consider any other necessary, wise or just amendments to the law to render the burden of taxation in other respects more fair, more equal, more just than I believe it to be under the laws to-day.

QUESTION. (By the CHAIRMAN.) Mr. Hamlin, before you go I should like to ask you two or three questions. How much, in your opinion, would be the amount taken off from the income of the state provided this law which you propose were enacted? Can you tell? ANSWER. Well, it is only possible, of course, to make the wildest guess.

Q. No, I mean as the law to-day is enforced by the assessors on the doomage principle; how much would be taken off from the income of the state? A. That is, assuming now that there would be no increase in these investments, and assuming that foreign stocks only will be assessed which are assessed to-day?

Q. For instance, the state derives an income from the assessment of the taxes on these stocks under the present law?

A. Yes.

Q. Now, how much is that income? A. Well, I should say, assuming, taking a basis of assessed valuation of one hundred millions—do you think that is a fair assessment?

Mr. WINN. I call it a little more. The average tax would be \$15.

Mr. HAMLIN. One million and a half should you say?

Mr. WINN. It would be a million and a half.

Mr. HAMLIN. I should say a million and a half dollars. I think we would agree that to-day we receive a little over a million and a half dollars from the existing methods of taxation on stocks in foreign corporations. I think that is fairly accurate.

Mr. WINN. If we could agree exactly upon the amount that is taxed! That is a difficult thing to say.

Mr. HAMLIN. Put it this way: I think a sum not exceeding two millions of dollars. Of course, you mean not the state alone, but the whole community. I should say two millions of dollars.

Q. I don't understand what you mean by the "whole community?" A. The whole tax as I understand it.

Mr. CURTIS. The sum of local taxes.

A (continued). It is the sum of local taxes.

Q. So that, if your bill were enforced, it would take from the revenues as collected in the different cities and towns about two million dollars, roughly, all told? A. Well, it would be the difference between the amount, if it is two millions, and the amount collected by the proposed law from the income of the stock, which would be perhaps—well, roughly, at a guess, perhaps two or three hundred thousand dollars, assuming of course no greater amount of such foreign stocks were returned to or found by the assessors.

Mr. WINN. You estimate two classes of property, property other than foreign stocks and foreign stocks, and you have put in the amount of foreign stocks.

A (continued). Of course I am simply speaking now of foreign stocks.

Q. I understand. A. It would be the difference between two or three hundred thousand dollars and perhaps a million and a half dollars, roughly speaking. If you desire, I can try and make a better estimate and send it to the Committee.

Q. I think it would be well for you to put in everything that you consider necessary to establish your case. A. Yes, I will do that.

Q. Is there such an Act as this in force in any of the other states to-day? A. Do you mean as the suggested amendment?

Q. Yes. A. I understand that there is no taxation of the stocks of foreign corporations in, I think, New Hampshire, Vermont, or certainly no state around Massachusetts.

Q. In none of the New England states? A. I believe in none of the New England states.

Mr. CURTIS. Except Maine.

A (continued). Except Maine; none of the others. I know New Hampshire, Connecticut, Vermont, Rhode Island and New York do not assess holdings in foreign corporations of their own citizens.

Mr. WINN. Only nominally?

Mr. HAMLIN. Nominally, if at all.

Q. Do you know what the facts are in regard to the assessment of stock of foreign corporations throughout the majority of states of the Union? A. I can ascertain that for the Committee. I do not know of my own knowledge at this moment.

Mr. WINN. I think the majority tax them.

Q. I wish you would. A. Yes, I will ascertain that for the Committee.

Q. Now, Mr. Hamlin, one more question, please. What system would you propose, what kind of a tax would seem to you a proper one to make up for the loss of income which would result from the passage of this bill? A. As I have said, I believe there would be no loss of income, from the fact that much money that now, for instance, is invested in real

estate investments in other states would naturally be invested in foreign stocks, and that as those returns would be made to the state I believe the net result would be just the same as to-day ; in other words, I don't believe the State of Massachusetts would lose one dollar. It would open such a favorite field for investment that is now confined to government bonds or realty in other states that I believe the net result would be at least the same to the Commonwealth, so that there would be no new tax necessary. Of course, this is purely an estimate. You cannot get any exact figures. But I know the way that trustees look at this, I know the way the people I have talked with look at it. It opens a favorite field of investment that, if the law were enforced, would be to-day absolutely barred. Of course, I assume to-day that you might as well have no such law on the statute book, and that we are about like New Hampshire, Vermont and Rhode Island, but if the law is to continue and the people know that it is to be enforced, a serious condition of affairs will result. The repeal of the law, on the contrary, would open the widest possible field for foreign investment of Massachusetts capital now going into real estate, government bonds and other non-taxable securities, or rather, non-taxable by the State of Massachusetts, and I firmly believe that you would not have to consider any substitute or new tax ; that on the contrary you would collect at least as much revenue and probably much more than under the system which is in force to-day. In our bill we provide that no one shall have the exemption which we ask for unless he makes a return to the assessors. The result would be that every one would make that return, because then, instead of paying a tax on the market value of the foreign security, he would pay a tax simply on the income that he received. There would be of course considerable difference in the amounts paid by each individual, but there would be in effect a premium on making a return so that the State in the aggregate would get very many more returns, probably twenty times as many ; the gross revenue received therefore would not decrease, but might even increase. In addition to that you would have the opportunity for profitable

investment in these corporate foreign stocks, which would result in larger investments, which presumably would be returned to the assessors and thus the net revenue would be probably larger than now.

Q. Mr. Hamlin, a man would probably not ask the assessors to assess his income and take the benefit of this Act unless he thought by so doing he would decrease the amount of his taxes would he? A. Certainly not, and that is the inducement in this bill for every one to make a return; because the individual would pay less taxes than before. There is no question about that. In other words, in the C. B. & Q. Railroad, instead of paying taxes on \$124, the market value, he would simply pay taxes on \$6, the income. It should be remembered that even under our Bill, the owner can be doomed on that \$124 as to-day, unless he makes his return. If he makes his return he individually receives a great exemption of taxation,—he is taxed on \$6 rather than on \$124. Of course, if that man is a prudent man he will at once make his return. In addition to that there will be many more men, in my judgment, as above stated, who will make returns who do not to-day, and in the aggregate, with the increase, the State will get a larger sum of money than before. I am confident on that proposition, as confident as any one can be that the net result to the Commonwealth of Massachusetts will be increased and not diminished revenue, and that the gain will be distributed over the community in a reduction in the tax rate. There is such an inducement that no reasonable man for a moment would hesitate about making a return if this bill became law. If it were tried for a year and were found not to succeed in practice, it would be the easiest possible thing to change the law, and then, what would rejoice the heart of the average assessors, he would have secured returns from a great many men who never make returns to-day, and the State could do as it saw fit with regard to future systems of taxation. It would produce that result. It would give you the benefit of returns that you are never getting to-day and give information to assessors; so that, if it were not successful in practice, you

could at once change the law and then you have the added information as to the holdings of these securities. So I think this would certainly please every board of assessors in the Commonwealth ; it would certainly give an inducement to every individual, and in the aggregate I believe the State would receive a larger sum in taxes than it does to-day.

Q. (By REPRESENTATIVE CASEY) I don't know how you could reach the answer, but it is something that bears on my mind a little. What effect will this have on the industrial pursuits of the State, that is, money, stocks, investments where there is the largest income with the least effort? Would it not draw from the industrial pursuits of the state which now employ labor to go into these outside investments? And would not the fact of our relieving this class of investments from taxation increase their value to some extent, their market value and their earnings, so that it would make it an object for capital now invested in industrial pursuits to go out of the state? A. If it had that result I think unquestionably it might be a disadvantage. I don't think it would. Of course, stocks in foreign corporations to-day are selling precisely the same in Massachusetts as in New York, which simply proves that the tax laws of to-day are not being enforced. On the other hand, there is a superabundance of capital in Massachusetts which is steadily outpouring over the United States, Europe, and South America ; change in the tax laws would simply give the state the benefit of these foreign investments. I think there never will be a time when we shall not have a large surplus of capital over all we need in the Commonwealth for every enterprise.

Q. (By SENATOR RAY) Mr. Hamlin, what reason have you to assume that returns will be made of the income taxable under this bill any more than they are under the present income law, upon which there is notoriously very little return made, any more than there are by the present holders of stock? A. The first reason is that a security holder under the new law would be paying a just, fair tax. The second is that if he did not make returns he could be doomed just as could under the law to-day. The assessors, with the information, the

returns that they would get, would soon be in a position to judge more accurately as to those who made no returns at all. It would give them a mine of information as to the amount of stocks the average individual might own. And, as I have said the fear of a rigorous dooming from information that would be obtained from returns of others would stimulate every one to come in and make their returns under the new law.

Q. (By REPRESENTATIVE WHITNEY) I would like to ask one question. One remark which Mr. Hamlin made does not appear quite clear in my mind. I understood him to state that the enforcement of the law would defeat the intent of the law. A. Yes sir. In other words, the law that we have to-day is not enforced. I believe that not one-tenth of the amount of foreign stocks owned by our citizens is reached to-day by the assessors. That is merely a question of judgment. I have no doubt Major Winn, who knows very much more about these questions than I do, will agree with me on that proposition. I assume that not one-tenth is actually reached under the law to-day. The moment you have a law in force providing for sworn returns and the moment each citizen knows that his holdings will be known to the assessors, that he must pay from 30 to 50 per cent of his income, that is to say, a fine of from 30 to 50 per cent for holding those stocks, he at once will sell them. He will invest in government bonds, which are not taxable at all, or he will invest in foreign real estate. We can't invest our surplus in the State, because I know of no industry that is not amply supplied with capital in the State of Massachusetts to-day. It is as much as to say that every man found with a foreign stock certificate on his person after next January must pay as a fine from 30 to 50 per cent of the net income he receives from that stock. Of course the result would be each person would instantly convert that stock into some other security, into land outside the State which could not be taxed by this State, or into government bonds, which would not be taxed all. In other words, such a statute would be nullified because every one could evade it honestly by simply changing the form of his investment.

REMARKS BY
HORATIO G. CURTIS, Esq.

At the hearing before the Committee on Taxation February 2, Mr. Horatio G. Curtis, President of the Old Boston National Bank, said:

I am treasurer of the Massachusetts Anti-Double-Taxation League. I wish to give one or two illustrations of the doubleness of our taxation system. For example, the Chicago, Burlington & Quincy R. R. Company possesses a lot of property in other states. That property is protected by the states in which the railroad runs, and as all property which is protected by a state owes remuneration to the state that protects it, that corporation pays taxes to every state, county, city or town where its property exists. I figure the tax to amount to \$1.69 per share; call it \$1.70 per share. After paying that tax the rest of the divisible earnings of the road is paid to the stockholders. That amounts to about four per cent. In other words, if there had been no tax payable where the property exists, the dividends, instead of being \$4 a share, would be \$5.70. The dividend is now \$6, but as the stock costs more than par the net return is about four per cent, so that for all our purposes I can take the return at four per cent. The tax is the remuneration paid to the states for the protection that is given to it. When I hold that share here I have really contributed a tax for the protection that is given to my property where it exists. If I am charged again another tax here, because I happen to own that share and hold it in Massachusetts, we call it a double tax; that is, I have paid one tax where my property is protected and I pay another tax where it is not protected. You may say that if I have that income the income comes here and is protected, and I say, 'Yes, and I am willing to pay a tax on that income.' That is what our proposition is.

If I have a million dollars worth of real estate situated in Chicago—and I do not hesitate to say that I am not in that position—my real estate is taxed in the city of Chicago to the valuation of a million dollars. I pay no tax in Massachusetts

upon that property. But if, for convenience, I should make an incorporation of that property, as is very often done, and hold all the shares myself, I should not be any richer than I was before. On the contrary, I should be very much poorer; because I should be subject then to another tax, a double tax in Massachusetts upon that property, which has not changed its nature at all; it has merely changed from being real estate to a corporation. Massachusetts under those circumstances would consider it had a right to tax me on a million dollars worth of property, whereas previously it had not felt itself entitled to tax me on that property. I should be very willing indeed to pay that tax if my property had doubled, but inasmuch as my property has not changed at all we call the second tax double taxation.

Supposing I have all the shares of a Massachusetts corporation worth \$100,000 and that my brother, living in New Hampshire, has all the shares of a New Hampshire corporation of the value of \$100,000, and that in consequence of a whim or for any other reason that seemed to us fit, we exchanged shares. The corporation which I own and which exists in Massachusetts is taxed here; the corporation which my brother owns and which exists in New Hampshire is taxed there. There are two taxes paid. Suppose we swap our shares, I take his and he takes mine. According to the laws of Massachusetts, I am taxable upon the shares that I hold in the New Hampshire corporation, the New Hampshire corporation is taxable there for its property; and the Massachusetts' corporation, whose shares my brother holds now, is taxable here. There are three taxes now paid where there were only two before, and yet there is no more property. Why are there three taxes? There is no more taxation in New Hampshire, because they don't tax my brother upon his holdings of Massachusetts' shares: they don't tax holders of foreign shares at all; but there are now three taxes where there were only two before. Where is the change? It is in Massachusetts. There are two taxes paid in Massachusetts, and yet there has been no increase of property anywhere. I don't own any more than I did before. Massachusetts is taxing twice where it only taxed once, and that is what we call double taxation.

The same thing exists with regard to a herd of cattle. If I have a herd of cattle in Maine they are taxed there. I am obliged by our laws to declare the possession and the value of that herd of cattle and pay another tax upon it in Massachusetts. That is what we call double taxation. So that if

we were required to justify the correctness of the title of our league, I hope I have done so.

Mr. Hamlin spoke about the taxation amounting to from 30 to 50 per cent. upon the income. I would like to read what the Taxation Commission said with reference to the taxation of income. They say:

“Whether or not the taxation of foreign securities, as now practiced by the Commonwealth, is in a large sense just, it is certainly impracticable. We believe it is impracticable by any method which proposes to tax securities to the same extent and by the same methods as tangible property situated on the spot. We believe that the proposed system of rigid enforcement by State assessment would not accomplish its object, and that, quite apart from the desirability of the end proposed, the result would be fruitless and disappointing.”

That is what Mr. Hamlin said, that it would be fruitless and disappointing.

“It must be remembered, in the first place, that at the rates now common with us the taxation of securities is at a higher rate than has ever been contemplated in any civilized country. With the rate of interest at not over four and one half per cent., if indeed so high, on good securities, and with the tax rate averaging one and one half per cent., the tax amounts to one-third of the income. No civilized country has imposed with success an income tax (in ordinary times) of more than three or at the most five per cent. During our civil war the income tax was for a while at ten per cent on large incomes, but it was never proposed to make it heavier, while its effective collection at this rate was difficult even during the enthusiasm for the conduct of the war and impossible under the conditions of peace. Can we expect, then, to collect honestly, equally, effectively, a tax amounting to $33\frac{1}{3}$ per cent. on income derived from the most elusive form of property?”

In the case of the taking of from 30 to 50 per cent. of the income, the instant that it was known that that was going to be done the holder of that property would say to himself, ‘How can I escape this?’ It is possible that he might get into a panic, he might yield to importunities that might be made to him, and he might say, ‘I will step across the boundaries of my state. All I have got to do to escape this tax, to get into a community where this enormity, this confiscation of a third to a half of my income is not practiced, is to step across the boundaries of Massachusetts.’ Not one State that

adjoins Massachusetts undertakes to tax the shares of foreign corporations. That is a very easy remedy. Supposing he did it and we corrected our laws afterwards, how could we get him back again? Not easily. People who leave a state for one reason are very apt to stay away. They may be afraid that when they come back again the law will be reimposed and they will be struck again. In any event, those who ask us to execute this law and thereby to drive our property owners out of the state ought to guarantee that if those men leave the state on the execution of the law they will get them back again provided the law is corrected. I don't think that we in Massachusetts should be placed in the position of losing tax payers unless, if the law is corrected so that Massachusetts will be available for them again as a residence, the people who have driven them out will guarantee to bring them back again. I think that is somewhat of a consideration. In any event, supposing he said, 'I won't do that, I will stay here,' all he has got to do is to sell his property which is subject to this taxation which he will not submit to and invest it in real estate elsewhere. Or he may say, 'If my income has got to be cut down from four per cent. to two per cent., hang it, I will put it into government bonds. That is a very simple thing to do. If I have got to be satisfied with two per cent., I will put it into government bonds where there is no chance of loss whatever, and where there will be no taxation.' Then Massachusetts, in attempting to get something, will have placed itself in a position where it is physically impossible for it to get anything from that man, and therefore we claim that it will be inoperative to endeavor to collect the tax.

In our bill we make the proposition that it is proper for a tax to be levied upon incomes. It is a question whether a tax is an equivalent for protection that is given and should be only that, or whether people should pay taxes in proportion to their ability. There is a very good argument to be made that no tax is due excepting for protection that is given. But that is not very attractive to us in these days, and I must confess myself that I am quite communist enough to think that taxation should be according to ability. Therefore, if a person has ability to pay the tax, he should do so. But no person has ability to pay 30 per cent. or 50 per cent. tax, unless you can say that if he has any income at all he has the ability to part with the whole of it. So, on the question of ability, you might as well say, 'We will take his whole income. He is able to pay it, because he has got that income.' That would

be evidently very unfair, for the whole of his income, but he would be able to pay it because he has it. He might not be able to live very well, but he would be able to part with what he had received. So that on the question of ability I don't think that you can say that simply because a man is able to pay 30 per cent. he should do it. I think that the proportion of tax, of his income, which he should pay, should be less than 30 per cent. Our proposition is that it shall be at the same rate as the tax upon income from profession, and we believe that if it were put upon that fair basis the returns would be made. * * * *

In answer to the following question by a member of the Committee "What you mean to say is this: That those who are now escaping taxation will voluntarily come up and allow their incomes to be taxed according to the new rates; that is, the other nine hundred million dollars will come in and be taxed according to those rates?" Mr. Curtis said:

I can only take my own instance. I know that if I were subject to a taxation of 30 per cent. upon my income I would do anything in the world not to have that disclosed, and if it were necessary for me to move to Newport I would try to do so; but if I were promised that my income should be taxed at the rate of one and a half per cent. I should say, 'Very well, I will declare it.' I should pay the tax willingly; I should disclose my income freely, and I think that all the others would, too. I think there would be so many incomes, that would be disclosed under those circumstances, because they would feel that it was not so unjust, that it would make up for anything that is expected to be in the nature of a loss by the adoption of our measure.







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